

Title X—LIVESTOCK MARKETING, REGULATORY, AND RELATED PROGRAMS

Section-by-Section

Subtitle A Marketing

Livestock Mandatory Reporting

Section 10001 amends section 232(c)(3) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635j(c)(3)). Subsection (a) moves the afternoon swine report from 2:00 p.m. to 3:00 p.m. Central Time.

Subsection (b) amends section 232 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635j) to require USDA not later than 180 days after enactment, to conduct a study on the positive or negative economic effects for inclusion of wholesale pork reporting, which is already provided by law for beef and lamb. Upon completion of the study, the Secretary of Agriculture may then require packer processing plants to at least twice each day report wholesale pork product sales.

Subsection (c) amends section 257 (a) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636f(a)) by making clear that retail scanner data shall continue and not be treated as a pilot project.

Grading Program for Catfish

Section 10002 amends section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622) to provide authority to the Secretary of Agriculture to establish a grading program for farm-raised catfish.

Subsection (b) requires USDA to conduct a study on the feasibility of establishing an inspection program for farm raised catfish at USDA.

Country of Origin Labeling

Section 10003 amends subtitle D of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638 et seq.). Subsection (a) adds goat meat and macadamia nuts as covered commodities. Requires retailers to provide country of origin labeling for beef, lamb, pork and goat meat, fruits and vegetables, and peanuts. A product can be labeled as product of United States if the commodity was exclusively born, raised and slaughtered in the United States. Product from animals that were not exclusively born, raised and slaughtered in the United States and not imported for immediate slaughter will be labeled with all the countries in which the animal may have been born, raised or slaughtered. Product imported for immediate slaughter will be labeled as product of the importing country and the United States. A label denoting a State, region or locality will

suffice as identity of United States origin. A person subject to an audit to verify compliance with the law can use records maintained in the normal conduct of business, including animal health papers, import or customs documents, or producer affidavits.

Subsection (b) provides that a noncompliance will be issued after 30 days if it is found that the retailer or a person engaged in the business of supplying a covered commodity has not made a good faith effort to comply with the law, and continues to willfully violate the law. Fines cannot exceed \$1,000 for each violation. Animals in the U.S. on or before January 1, 2008 may be designated as U.S. origin.

Subtitle B Agricultural Fair Practices

Agricultural Fair Practices

Section 10101 amends section 3 of the Agricultural Fair Practices Act of 1967 (7 U.S.C. 2302) to expand the definition of “association of producers” to include general livestock, poultry and farm groups.

Section 10102 amends section 4 of the Agricultural Fair Practices Act of 1967 (7 U.S.C. 2303) by adding the word “form” to expand the Act to include producers that work to form an agricultural producer association. This section also adds “to bargain in good faith with an association of producers.”

Section 10103 amends the Agricultural Fair Practices Act of 1967 by striking sections 5 and 6 (7 U.S.C 2304, 2305) to make the law consistent with amendments to create a Special Counsel for Agricultural Competition and remove the disclaimer clause so that it can be defined through rulemaking. Section 5 (a)(b) allows the Special Counsel acting through the Secretary of Agriculture to bring a civil action in United States District Court (consistent with current law). This section also allows persons injured by a handler to seek remedy in United States District Court and recover damages and additional penalties of up to \$1,000 per violation. The section also allows any person injured by a violation to receive remedy for the full amount of damages sustained including the costs of litigation and reasonable attorney’s fees and sets the statute of limitations to no later than four years.

Section 10104 amends the Agricultural Fair Practices Act of 1967 to provide authority for the Secretary to promulgate rules and regulations to carry out the Act, including regulations to define fair and normal dealing for purposes of selecting customers by handlers.

Subtitle C Packers and Stockyards

Special Counsel for Agricultural Competition

Section 10201 amends the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) by creating a Special Counsel for Agricultural Competition within USDA. Activities relating to investigations

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and prosecutions will be combined into one office. The Office of Special Counsel will assume the responsibility over the duties and functions currently operated by the Packers and Stockyards programs at USDA. The Special Counsel will serve as a liaison between the Department of Justice and Federal Trade Commission. The Special Counsel shall report to the Secretary of Agriculture. The Special Counsel shall provide detailed reports to Congress, twice each year, that describe enforcement actions taken by the Office of Special Counsel, including any enforcement actions objected to or prohibited by the Secretary.

Investigation of Live Poultry Dealers

Section 10202 amends section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 1821(a)) to provide the Secretary of Agriculture enforcement authority over poultry, including pullet and breeder hens.

Production Contracts

Section 10203 amends section 2 (a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 192(a)) to provide definitions for capital investment, contractor, contract producer, investment requirements and production contracts.

Subsection (b) amends Title II of the Packers and Stockyards Act, 1921 (7 U.S.C. 198 et seq.) to allow a contract producer to cancel a production contract within three business days after the date at which the production contract is executed.

Allows contract producers who have made an investment of \$100,000 or more for purposes of securing the production contract with a packer, live poultry dealer, or swine contractor be given at least 90 days to correct an alleged breach before the contract can be terminated, except when the producer has abandoned the contractual relationship, conviction of the contract producer, natural end of the contract, or the well-being of the livestock or poultry is in jeopardy under the care of the contract producer.

Inserts section 208 Right of Contract Producers to Cancel Production Contracts

Prohibits a packer, live poultry dealer, or swine contractor from requiring additional investments during the term of the contract unless the additional investments are offset by additional consideration and the contract producer agrees in writing that there is an acceptable and satisfactory consideration or unless without the additional investments the well-being of the livestock or poultry would be in jeopardy.

Inserts section 209 Choice of Law, Jurisdiction, and Venue

Provides that no provisions in livestock or poultry production or marketing contracts can require the application of a law from a state other than the state in which the production occurs, unless the producer selects a venue that is otherwise permitted by law.

Inserts section 210 Arbitration

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Allows producers to settle disputes using arbitration only if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy.

Right to Discuss Terms of Contract

Section 10204 amends section 10503 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 229b(b)) to make clear that livestock or poultry producers can choose to discuss the terms of his or her contract with business associates, neighbors or other producers.

Attorneys' Fees

Section 10205 amends section 308(a) the Packers and Stockyards Act, 1921 (7 U.S.C.209(a)) to allow producers to receive remedy for violations that include the costs of the litigation and reasonable attorneys' fees.

Appointment of Outside Counsel

Section 10206 amends section 407 the Packers and Stockyards Act, 1921 (7 U.S.C. 228) to provide the authority to the Secretary of Agriculture, if necessary, to seek outside counsel to aid in investigations and civil cases.

Regulations

Section 10207 requires the Secretary of Agriculture, acting through the Special Counsel to promulgate regulations that define the term “unreasonable preferences or advantage” under the Packers and Stockyards Act. It also provides guidance for the rulemaking to ensure that advantage or preferences are based on verifiable lower costs of acquiring livestock from larger volume producers. This section also requires the Secretary to develop rules that require live poultry dealers to provide notice to poultry growers if the live poultry dealer imposes an extended layout time in excess of thirty days, prior to removal of the previous flock.

Subtitle D–Related Programs

Sense of Congress Regarding Pseudorabies Program

Section 10301 is a Sense of Congress recognizing the threat that feral swine pose to the domestic swine and overall livestock population.

Sense of Congress Regarding Cattle Fever Tick Eradication Program

Section 10302 is a Sense of Congress recognizing the potential threat of cattle fever tick and southern cattle tick to cattle and for the Secretary of Agriculture to implement a national strategic plan for eradication purposes.

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National Sheep and Goat Industry Improvement Center

Section 10303 amends section 375 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j) to reauthorize the National Sheep and Goat Industry Improvement Center and authorizes \$10,000,000 for each of fiscal years 2008 through 2012 for infrastructure development, business planning, production, resource development and market and environmental research. \$1 million in mandatory funds is provided for fiscal year 2008.

Trichinae Certification Program

Section 10304 amends section 10409 of the Animal Health Protection Act (7 U.S.C. 8308) authorizing \$1,250,000 for each of fiscal years 2008 through 2012 for a trichinae certification program. This section also requires the Secretary to issue final regulations to implement the program 60 days after enactment of this Act.

Protection of Information in the Animal Identification System

Section 10305 amends the Animal Health Protection Act (7 U.S.C. 8301 et seq) by inserting section 10416 to make clear that any use of information obtained through the national animal identification system by any person or entity shall be a violation of this Act. This section also clarifies how the Secretary can and cannot disclose information obtained through a national animal identification system.

Low Pathogenic Avian Influenza

Section 10306 amends section 10407 (d)(2) Animal Health Protection Act (7 U.S.C. 8306(d)2)) to codify USDA's interim rule (part 56 of title 9, Code of Federal Regulations in effect on the date of enactment) to provide compensation to any owner or poultry grower participating in the voluntary control program for low pathogenic avian influenza under the National Poultry Improvement Plan and that such payments shall be made in the amount equal to 100 percent of eligible costs.

Study on Bioenergy Operations

Section 10307 requires the Secretary of Agriculture, acting through the Office of the Chief Economist to conduct a report describing the potential economic issues associated with animal manure used in normal agricultural operations and as a feedstock in bioenergy production.